

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHARLES CASTON,)
)
 Plaintiff,)
)
 v.) No. 4:06-CV-1729-CAS
)
 UNKNOWN GUTIERREZ, UNKNOWN GUTKNECHT)
 UNKNOWN HALL, UNKNOWN HARMON,)
 UNKNOWN HARRIS, UNKNOWN HART,)
 UNKNOWN HASTERT, UNKNOWN HASTINGS,)
 UNKNOWN HAYES, UNKNOWN)
 HAYWORTH, UNKNOWN HEFLEY,)
 UNKNOWN HENSARLING, UNKNOWN)
 HERGER, UNKNOWN HERSETH, UNKNOWN)
 HIGGINS, UNKNOWN HINCHEY, UNKNOWN)
 HINOJOSA, UNKNOWN HOBSON, UNKNOWN)
 HOEKSTRA, UNKNOWN HOLDEN, UNKNOWN)
 HOLT, UNKNOWN HONDA, UNKNOWN)
 HOOLEY, UNKNOWN HOSTETTIER, UNKNOWN)
 HOYER, UNKNOWN HULSHOF, UNKNOWN)
 HUNTER, UNKNOWN HYDE, UNKNOWN)
 INGLIS, UNKNOWN INSLEE, UNKNOWN)
 ISRAEL, UNKNOWN ISSA, UNKNOWN ISTOOK,)
 UNKNOWN JACKSON, JR., UNKNOWN)
 JACKSON, UNKNOWN JEFFERSON, UNKNOWN)
 JENKINS, UNKNOWN JINDAL, UNKNOWN)
 JOHNSON, and UNKNOWN JOHNSON,)
)
 Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on the application of Charles Caston (a/k/a Charles Muhammad) for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court finds that plaintiff is financially unable to pay any portion of the filing fee.

Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if "it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief may be granted if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Jackson Sawmill Co. v. United States, 580 F.2d 302, 306 (8th Cir. 1978).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. Denton v. Hernandez, 112 S. Ct. 1728, 1733 (1992); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

The complaint

Plaintiff seeks unspecified monetary and injunctive relief in this action against forty defendants. Plaintiff summarily claims that defendants violated his Fourth, Fifth, Sixth, and Eighth Amendment rights.

Having reviewed the instant complaint, the Court concludes that plaintiff has failed to state sufficient facts to give fair notice of the claim asserted. Plaintiff has failed to set forth short and plain allegations against any of the named defendants, and even affording the complaint a liberal construction, the Court is unable to ascertain the nature of plaintiff's claims. Although a pro se complaint is to be liberally construed, the complaint must contain a short and plain summary of facts sufficient to give fair notice of the claim asserted. Means v. Wilson, 522 F.2d 833, 840 (8th Cir. 1975). The Court will not supply additional facts or construct a legal theory for plaintiff that assumes facts that have not been pleaded. As such, the instant complaint will be dismissed, without prejudice.

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint, because the complaint

is legally frivolous and/or fails to state a claim upon which relief may be granted. See 28 U.S.C. § 1915(e)(2)(B).

An appropriate order shall accompany this memorandum and order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 21st day of December, 2006.